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May 25, 2010

BY ECF

Honorable Gary L. Sharpe
United States District Judge
Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway, Room 441
Albany, New York 12207

Re: *Kathleen Curns & Linda Zukaitis v. Wal-Mart Stores, Inc.,*
No. 06-CV-1336 (GLS)

Dear Judge Sharpe:

We represent Plaintiffs Kathleen Curns and Linda Zukaitis (“Plaintiffs”) in the above-referenced matter. We write to respectfully request that the Court direct Defendant Wal-Mart Stores, Inc. (“Defendant” or “Wal-Mart”) to reimburse Plaintiffs’ counsel for the reasonable out-of-pocket costs associated with the pretrial deposition of former Wal-Mart Manager Patti Allen (“Allen”), the first individual identified on Wal-Mart’s “will call” list of trial witnesses. The Court granted Wal-Mart’s recent application to schedule Allen’s pretrial deposition, as well as the deposition of Wal-Mart Manager Randall Sims (“Sims”), by Order dated May 21, 2010 (ECF #96).

As stated in Wal-Mart’s application for leave to conduct these pretrial depositions, Wal-Mart has agreed to produce Sims for his pretrial deposition in New York City, where counsel for both parties are located (*see* ECF #92). However, Wal-Mart has scheduled Allen’s deposition to be conducted in Syracuse, NY, which will require counsel to travel to Syracuse to cross-examine Allen in advance of the trial. Because Allen’s 11th-hour post-discovery deposition is being conducted pursuant to Wal-Mart’s application to the Court (which Plaintiffs opposed) – and in light of the vast disparity in resources vis-à-vis Wal-Mart and the individual Plaintiffs seeking to vindicate statutory civil rights claims in this case – we respectfully request that Wal-Mart be required to bear the reasonable out-of-

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pocket costs to be incurred by Plaintiffs as a result of Wal-Mart's decision to conduct Allen's deposition in Syracuse.¹

Thank you very much for Your Honor's consideration of this request.

Respectfully submitted,



Andrew S. Goodstadt

cc: Counsel for All Parties (*by ECF*)

¹ Counsel for Wal-Mart has advised us that Defendant would not consent to this request.